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7 *Townhomes Phase I HOA*

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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 NATIONSTAR MORTGAGE LLC,

13 Plaintiff,

14 vs.

15 RANCHO SAN RAFAEL TOWNHOMES,
16 PHASE I HOMEOWNERS ASSOCIATION
17 AND THUNDER PROPERTIES INC.

18 Defendants.

19 RANCHO SAN RAFAEL TOWNHOMES,
20 PHASE I HOMEOWNERS ASSOCIATION
21 AND THUNDER PROPERTIES INC.

22 Third-party Plaintiff

23 vs.

24 HAMPTON & HAMPTON COLLECTIONS,
25 LLC.; DOES 1 - 10; ROE CORPORATIONS 11-
26 20, inclusive, jointly and severally,

27 Third-party Defendant
28

Case No. 2:16-cv-1961-GMN-NJK

**RANCHO SAN RAFAEL
TOWNHOMES PHASE I HOA'S
MOTION FOR EXCEPTION TO
PARTY ATTENDANCE
REQUIREMENTS**

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NOW COMES the Defendant and Third Party Plaintiff, RANCHO SAN RAFAEL TOWNHOMES, PHASE I HOMEOWNERS ASSOCIATION, through its counsel, EDWARD D. BOYACK, ESQ. and COLLI C. MCKIEVER, ESQ. and of the law firm BOYACK ORME & ANTHONY, who hereby file this Motion for Exception to Party Attendance Requirement.

1 This Request is made pursuant to the attached Memorandum of Points and Authorities,
2 all papers and pleadings on file herein, all judicially noticed facts, and any such further oral
3 argument as the Court may entertain.

4 Dated this 5th day of July, 2017.

5 **BOYACK ORME & ANTHONY**

6 **By:** /s/ Edward D. Boyack

7 Edward D. Boyack, Esq.

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12 Las Vegas, NV 89117

13 *Attorney for Defendant Rancho San Rafael*
14 *Townhomes Phase I HOA*

15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 On June 26, 2017, the Court entered an Order referring the above-identified litigation to
17 the Magistrate Judge for a settlement conference. See ECF No. 36. Pursuant to this Order the
18 Court scheduled the settlement conference for September 14, 2017 at 9:30 a.m. See ECF No.
19 36. Included within the Order was a requirement that “[a]ll counsel of record who will be
20 participating in the trial and who have full authority to settle this case, all parties appearing pro
21 se, if any, and all individual parties must be present. In the case of non-individual parties,
22 counsel of record shall arrange for an officer or representative with binding authority to settle this
23 matter up to the full amount of the claim or last demand made to be present for the duration of
24 the conference.” *Id.* at 1:21-2:4 (emphasis in original). The Order also stated, “[a] request for
25 an exception to the above attendance requirements must be filed and served on all parties within
26 seven (7) days of the issuance of this order.” *Id.* at 2:5-7.

27 “A settlement conference without all of the necessary parties present is not productive.”
28 *Painter. Joint Comm. v. J.L. Wallco*, 2013 U.S. Dist. LEXIS 105720; 2:10-cv-01385-JCM-PAL
(D. Nev., July 26, 2013). However, “the district court has inherent power ‘to control the
disposition of the causes on its docket with economy of time and effort for itself, for counsel, and


1 for litigants.” *U.S. v. U.S. Dist. Ct.*, 694 F.3d 1051, 1058 (9th Cir. 2012) (quoting *Landis v.*
2 *N. Am. Co.*, 299 U.S. 248, 254, 57 S. Ct. 163 (1936)). District courts should take a “practical
3 approach” in determining whether to require a party to send a representative with full settlement
4 authority to a pretrial settlement conference and should consider less drastic steps before doing
5 so. *In re Stone*, 986 F.2d 898, 904-05 (5th Cir. 1993). The Federal Rules “should be construed,
6 administered, and employed by the court and the parties to secure the just, speedy and
7 inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1.

8 The representative from Rancho San Rafael Townhomes, Phase I Homeowners
9 Association (“HOA”) is a member of the HOA Board, which is an unpaid, voluntary position.
10 Further, the HOA is a non-profit entity, funded by the assessments paid by the owners of the
11 Association. The HOA Board member who is the representative with settlement authority is a
12 resident of Reno, Nevada. Travel to attend the in-person Settlement Conference would create
13 both a financial and personal hardship upon the Board Member. The HOA requests that the
14 Board Member be allowed to participate in the Settlement Conference by video or telephonic
15 means.

16 Accordingly, Rancho San Rafael Townhomes, Phase I Homeowners Association
17 respectfully requests that the personal attendance of the HOA Board Member be excepted from
18 the Settlement Conference and that video or telephonic participation by the HOA Board Member
19 be allowed at the September 14th, 2017 Settlement Conference.

20 Dated this 5th day of July, 2017.

21
22 **GRANTED.** The HOA Board member
23 shall participate by telephone for the
24 duration of the settlement conference.
25 **IT IS SO ORDERED.**
26 Dated: July 6, 2017

27 
28 United States Magistrate Judge

BOYACK ORME & ANTHONY

By: /s/ Edward D. Boyack

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